



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 4992-99

10 March 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN,
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NPC ltr 1000 Pers-312E/13 of 29Dec99
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member and midshipman in the United States Navy filed enclosure (1) with this Board requesting, in effect, a correction to the separation program designator (SPD) codes assigned on 5 July 1976 and 25 July 1979.

2. The Board, consisting of Mr Dunn, Mr. Brezna and Ms. Hare, reviewed Petitioner's allegations of error and injustice on 7 March 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner was released from active duty on 5 July 1976 so he could accept an appointment as a midshipman at the United States Naval Academy (USNA). In accordance with regulations in effect at the time, he was issued a DD Form 214 with no entry in the blocks on the form for the reason and authority for separation and reenlistment code. Entered on the file copy of the DD 214 is the SPD code of KGU and a reenlistment code of RE-2.

d. Petitioner was dropped from the Naval Academy on 25 July 1979. Once again, as required by regulations there is no entry

in the authority and reason block of the DD Form 214. The file copy of the form indicates he was assigned an SPD code of JFH.

e. Petitioner states in his application that he desires a change in the SPD and reenlistment code assigned on 5 July 1976 because he believes it is derogatory. He states that the SPD code assigned when he was dropped from the USNA means that he declined a commission when it was offered or that he was rejected for a commission. He contends that the SPD code prevented him from entering ROTC and is continuing to hinder his efforts to gain a commission. He has submitted evidence showing that he injured his back while in the USNA. He claims that the pain caused him to fall behind in his studies and he was dropped for academic reasons.

f. The regulation in effect at the time the DD Forms 214 were issued required the assignment of an SPD code of KGU and an RE-2 reenlistment code when an enlisted member was discharged to enter the USNA. The section of the regulation concerning midshipman separations does not list an SPD of JFH. The only SPD code which appears to fit the circumstances is JHF which is assigned when a midshipman is being discharged because they were "found deficient on any examination." Reenlistment codes are not assigned to midshipmen.

g. At enclosure (2) is an advisory opinion from the Navy Personnel Command. Concerning the SPD code of KGU and the RE-2 reenlistment code assigned on 5 July 1976, NPC believes that the entries accurate and recommends no changes. Concerning the SPD code of JFH assigned on 25 July 1979, NPC recommends that it be changed to JHF.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Concerning the SPD code and RE-2 reenlistment code assigned in 1976 the Board notes that all others in Petitioner's situation were assigned the same SPD and reenlistment code and it is not derogatory. Therefore, the Board agrees with the recommendation contained in the advisory opinion that these codes not be changed.

The Board notes that the SPD code of JFH assigned on 25 July 1979 appears to be a typographical error since that code is not listed in the regulation. Therefore, the Board agrees with the advisory opinion that this SPD code should be changed to JHF.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 25 July 1979 he was assigned an SPD code of JHF vice JFH.

b. That his request for a change in the SPD and reenlistment code assigned on 5 July 1976 be denied.

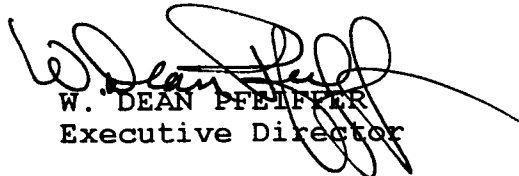
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director